FOR MYSORE STATE

Revenue (1953) Department

MS. SERIES.

G.O. No. ~~1246~~ 2346

Dated 12.8.1953.

[Despatch Abstract.]

LAND ACQUISITION - (South Kanara) - Udipi municipality- O.Ps.5, 6, 7 etc. on the file of the Sub-Court, South Kanara - Additional interest paid - Recovery from persons responsible for the loss to the Government - Orders issued.

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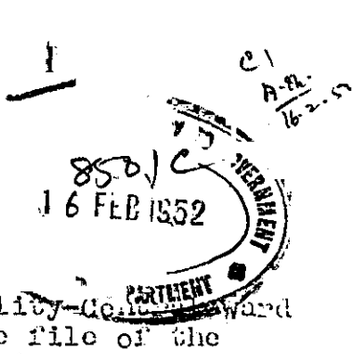

Revenue Department

Subject

Land Acquisition(South Kanara)Udipi Municipality-Central Ward Town Planning Scheme-O.P.Nos.5,6,7 etc on the file of the Sub Court South Kanara-payment of additional interest-report submitted.

Station:Madras Ref.I.10063-51-1 Dated 14-2-1952

From

Sri.N.C.Thomas,B.A.,Joint Secretary
Board of Revenue,Madras.

Sri.W.R.S.Sattianathan,I.C.S.,Commissioner of
Land Revenue.

...

Read:- South Kanara Ref.B1.641-48 dated 14-12-1951.
South Kanara Ref.C.B.15/51 dated 9-2-1952.

..

In O.P.Nos.5,6,7,1217, 33,42,47,48 and 57 of 1948 on the file of the Sub Court,South Kanara,the Sub Judge enhanced the compensation awarded by the L.A.officer(R.D.O. Coondapur Mr.Charles John) in respect of certain lands acquired on behalf of the Udipi Municipality for the purpose of the Central Ward Town Planning Scheme. In my office letter dated 30-12-1949 (pages 1009-10 of the file enclosed), the L.A.officer's attention was drawn to the decree and judgment passed by the Sub Judge and he was requested to take immediate action for the realisation of the enhanced compensation,interest and court costs from the Udipi Municipality and to deposit the same in court. A copy of this letter was forwarded also to the Commissioner of the Udipi Municipality on the same date for necessary action.

2. In his letter dated 20.1.49 (page 1021) the Commissioner of the Municipality intimated the Revenue Divisional Officer Coondapur that he had remitted on 20.1.49 into the sub treasury Udipi asum of Rs. 6404-6-0 towardsthe enhanced compensation and interest on that amount from 21.1.48 to 20.1.49 as per the decree of the Sub Judge which included also the court costs awarded against the Government. The Commissioner sent a copy of this intimation also to the Government Pleader, Mangalore.

3. After the receipt of the letter dated 20.1.49 from the Commissioner of the Municipality, the Revenue Divisional Officer Coondapur wrote to my office on 31.1.49 (page 1031) stating that he was writing to the Government Pleader Mangalore to make necessary arrangements for the payment of the amounts due to the parties concerned and that he had however not received the copies of the decrees and orders in any of the cases. But on 7.2.49 (page 1029) the G.P. sent the copies of the decrees anddorders in the several cases to the Revenue Divisional Officer Coondapur observing that there are no grounds in these cases for the filing of an appeal. In the same letter, the G.P. also wanted the return of the decrees anddorders to him after they were perused by the R.D.O. so that he might get the mistakes in the drafting of the decree in regard to court costs duly rectified. On 25.2.49 (Page 1057), the Revenue Divisional Officer reported that he has returned the copies of the decrees and orders to the Government Pleader Mangalore with his letter dated 19.2.49.

4. Again, on 10.3.49 (page 1041) the Government Pleader returned the copies of the decrees anddjudgments to my office under intimation to the Revenue Divisional Officer -

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Coondapur. On 2.3.49 (page 1049, the Revenue Divisional Officer reminded the Government Pleader to intimate to him whether steps had been taken to deposit in court the amount of the enhanced compensation already remitted by the Udipi Municipality into the Sub Treasury at Udipi. The ~~letter~~ Government Pleader invited the attention of my office to this letter and asked for the return of the decrees and orders on 23.4.49 (page 1057) on 22.4.49 (page 1053) the C.I. sent to my office a letter received from a lawer in one of the C.I.s claiming payment of the enhanced compensation. This letter was forwarded to the Revenue Divisional Officer from my office on 24.6.49 (page 1061). On 7.7.49 (page 1069), the Revenue Divisional Officer asked for information from my office regarding the particulars of the amount to be paid to the lawyer. On 10.9.49 (page 1074), the Revenue Divisional Officer was informed from my office that the copies of the decrees and orders were with the Government Pleader Mangalore and that the particulars required might be obtained from him direct. The Revenue Divisional Officer reminded the Government Pleader again on 16.9.49 (page 1079) regarding the particulars of the exact amount of compensation awarded to the several individuals. On 14.9.49 (page 1081) my office also reminded the Revenue Divisional Office to intimate whether the moneys remitted by the Municipality have been deposited in Court. On this, the Revenue Divisional Officer replied on 21.9.49 (page 1083) that the Government Pleader had been asked to arrange payment of the amounts and that, if payment had not been made already, interest from 21.1.49 till date of payment will have to be credited into the Treasury by the Commissioner. The Revenue Divisional Officer also promised to take further action after hearing from the Government Pleader whom he addressed on 21.9.49 (page 1085). On 24.9.49 (page 1223), the Government Pleader wrote to the Revenue Divisional Officer stating that the amount should have been deposited in court and that if that had not been done, the Commissioner might be asked to draw the amount from the Sub Treasury and send it over to him for payment to the parties concerned. Accordingly, ~~to him for payment to the parties concerned~~ the Revenue Divisional Officer addressed the Commissioner to draw the amount from the Sub Treasury and send it to the Government Pleader which the latter did on 7.11.49 (page 1107). Thereafter, the amount was either paid to the parties concerned or deposited in court, as would be seen from the statement enclosed.

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5. It would be obvious from the statement enclosed, that the enhanced compensation was actually paid to the several parties on various dates between 16.11.49 and 30.12.49, i.e., nearly a year after the Commissioner first remitted the money on 20.1.49 into the Sub Treasury at Udipi. It has to be stated here that the delay of nearly a year in the payment of the compensation to the parties was due to the fact that the Commissioner remitted the amount into the Treasury when there was no request from the Collector or the Revenue Divisional Officer to that effect (page 1129) instead of depositing it in court. It can be said to be due also to the fact that the Government Pleader also failed to give a timely reply similar to the one he gave on 24.9.49 (page 1223) to the Revenue Divisional Officers reference dated 31.1.49 (page 1223). ~~To the Revenue Divisional~~ The Land Acquisition Officer cannot also be said to be free from blame. When the amount was remitted into the treasury, he ought to have arranged to adjust ~~into~~ the amount ~~xxxxxxx~~ to court deposits. According to him he was not in possession of information regarding the actual amount to be paid to each of the parties. The copies of the decrees and judgments were in his possession from 8.2.49 till 20.2.49. It was only ~~only~~ the latter date that the documents were returned by him to the Government Pleader for rectifying some defects in the drafting of the decree in regard to court costs which the G.P. had pointed out earlier in his letter dated 7.2.49 (Pages 1029 and 1037).

(continued)

Meanwhile, one of the parties viz., the Canara Land Investments Ltd., Manipal (O.I.f.s. 7/48 claimed payment of the additional interest from 21.1.49 till date of payment of enhanced compensation (page 1105). Though the amount claimed by them was Rs. 72-7-11, the correct amount due to them works out to Rs. 73-14-11 as would be seen from the statement enclosed. The Commissioner was addressed to pay this sum, but he reported that the Finance Committee of the Municipal Council had refused to comply with the demand on the ground that the full amount had been paid even on 20-1-49 and that if it had not been adjusted to court deposits it was not the fault of the Municipality. The Commissioner was again addressed on 11-9-50 (page 1145) in which his attention was drawn to the Revenue Divisional Officer's letter dated 9-1-49 (page 1151) and my office letter dated 30-12-48 (page 1009) wherein instructions were given to deposit the amount into the court only. The Commissioner was also called upon to explain the circumstances under which he remitted the amount into the Sub Treasury, Udipi instead of into the Court.

7. As these difficulties arose only as a result of the Commissioner having deposited the amount into the Sub Treasury instead of in the Sub Court inspite of specific instructions issued from my office, he was asked to make arrangements to deposit the additional interest in my office letter dated 11-9-50. (Page 1145). This time also the Commissioner expressed his inability to pay the amount. I therefore brought these facts to the notice of the Inspector of Municipal Councils and Local Boards in my letter dated 3-11-50 (page 1165) so that he might interfere in the matter and induce the Municipal Council to accord sanction for the payment of the additional interest. The Inspector of Municipal Councils also replied to me stating that it would be hard to call upon the Municipality to pay the additional interest in the circumstances explained by them (page 1179). This additional interest works out to Rs. 292-12-3 in the several cases. No claim for interest has however been made by any party except the Canara Land Investments Ltd., Manipal.

8. In his letter dated 9-7-51 (page 1205) the Government Pleader Mangalore states that the Revenue Divisional Officer erred in not depositing the amount into the court soon after it was remitted into the Treasury by the Municipality and that to shift the responsibility now on other shoulders is wrong. He adds that the Government also are not entitled to claim additional interest from the Municipality. It is clear from this ~~from any~~ that the Government Pleader tries to free himself in the matter from any blame, though he is also responsible for the delay in the payment of enhanced compensation.

9. From the letter dated 23.8.51 (page 1215) which the Sub Judge sent to me, it is seen that the enhanced compensation was not deposited into the Court but was actually sent by the Commissioner to the Government Pleader, Mangalore and that the amounts were latter either paid to the parties through their Advocates or deposited in Court by the Government Pleader only. The question for consideration now is from whom the additional interest of Rs. 292-12-3 is to be collected for payment to the parties. There has no doubt been only one claim so far from one of the parties, that is, the party entitled to a sum of Rs. 73-14-11 in O.I. 7/48.

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10. The lands were acquired on behalf of the Udipi Municipal Naturally therefore, it is the Municipality that is liable to pay whatever sums are incurred on account of the Acquisition. But both the Municipality, and the Inspector of Municipal Councils and Local Boards have declined the payment of the sum from out of the Municipal Funds.

11. I find that the matter was delayed as the Revenue Divisional Officer had no information regarding the exact amount of the enhanced compensation awarded by the court. Apart from this, correspondence between the Government Pleader and the Revenue Divisional Officer also contributed to the delay. The amount was remitted into the Sub Treasury on 20-1-49 and the it was lying there till November, 1949. If the Government Pleader had sent a prompt and pointed reply to the Revenue Divisional Officer's letter dated 31.1.49 (page 1223) there would not have been any occasion for the claim of this extra interest at all (page 1_05). As the parties are now entitled to interest till the date of payment of compensation to them as per the Sub Judge's decree, I solicit orders how and from whom the sum of Rs. 292-12-3 should be made good. I am of opinion that the Municipality should be asked to make good the amount.

The records of my file (pages 755-1224) are enclosed for reference and return.

Copy of South Kanara Collector's letter No. CB. No. 15/51 d/ 9.2.52.

Land Acquisition - (South Kanara) Udipi Municipality - Central ward - Town Planning scheme - O.P.nos. 5,6,7 etc. on the file of the sub court - South Kanara - Payment of additional interest on the enhanced compensation - awarded Rs. 292-12-3 - Refusal by the Udipi Municipality to remit - Report.

Ref: My letter Re.B1. 641-48 d/ 14.12.51.

The Government Pleader, Mangalore has since written to me that in the O.Ps referred to in my report, cited the sub judge has ordered the payment of the Additional interest to the parties concerned by 26.2.52. I therefore request to be informed telegraphically whether the additional interest could be drawn and remitted by me to court by 26.2.52 from out of the Provincial funds pending orders on my report cited.

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RETERRED:

Submitted to the Government.

2. The Board submits that in the circumstances reported by the Collector in his letter second read above it is permitting him to pay the additional interest of Rs. 292-12-3 from the Provincial funds pending its recovery from the persons responsible. It requests that its action in so permitting the Collector may be ratified. A further report will be submitted to the Government about the officers responsible for the loss to Government after obtaining some further particulars from the Collector of South Kanara in the matter.

1.

for Joint Secretary.

To The Secretary to Government,
Revenue Department, Madras (Paras 1 and 2 only)
To The Collector of SouthKanara with a file to be returned. (Whole)

SV: 15/2.

Rev Dept.

Memo No. 8501C/52-2 dated 27/8/52

Land Acquisition - (South Kanara) - Kodipi Municipality - Central Ward Town Planning Scheme - O.P. Nos. 5, 6, 7 etc on the file of the Sub-Court, South Kanara - Payment of addl. interest

From the Bd. of Rev. Ref. I 10063/51-1 dt) 14-2-52

The action of the Board of Revenue in having permitted the Collector of South Kanara to pay the additional interest of Rs. 292-12-[illegible] (Rupees Two hundred and ninety two, annas twelve and pies three only) in the land acquisition case referred to above from the State funds pending its recovery from the persons responsible is approved.

2. The further report of the Board of

Reg. in the matter is awaited.

1.3.52

To

The Bd of Rev

The Comptr of Stamps

The H.A. to Govt. Fin

A.H. for Fin

Through G. & B.

Health / F

Rev no 8501/C/52.

-5/3/52.

NOTE:- P.H of Fin. w.o. for acceptance.

1/3/52

PH

Fin

4/3

Health

Tw

May be accepted and passed on to Fin.

7/3/52

Fin

Issue
DE
27/3/52

Rev(A

The draft memo on pp 1-2 above may be accepted.

1.2

AM
14.3.52

DM
14/3/52

DM.
17/3/52

Rev.

Rev(A

2(W.U.C.)
207/Accts/1 Rev
15-3-52

ADDITIONAL SECRETARY TO GOVERNMENT
15578
18 MAR
REVENUE

GL
18/3/52

To AS

The draft memo on pp 1-2 ante which has been accepted by Fin may now issue.

DM
27/3/52

JS
27/3/52

Revenue Department.

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Subject:

LAND ACQUISITIONS (SOUTH KANARA) Udipi Municipality Central Ward Town Planning Scheme - O.Ps.5.67 etc. Sub Court South Kanara - Payment of additional interest - report submitted.

Ref.No.I.10063/51-7. Madras. Dated the 2nd February 1953.

From: Sri W.R.S. Sattianathan, I.C.S., Commissioner of Land Revenue.
Sri C.S. Krishna Moorthi, I.A.S., Joint Secretary, Board of Revenue.

Read: Collector of South Kanara B.1.641/48 dated 4-12-1951.
Board's Ref.I.10063/51-1, dated 14-2-1952.
Collector of South Kanara C.B.15/51 dated 25-7-1952.
Collector of South Kanara CB.15/51 dated 26-10-1952.

Reference:

Submitted to the Government in continuation of Board's reference second read above.

2. The explanation of Sri Charles John, the then Revenue Divisional Officer (who has since retired from the post of Collector, Tiruchirapalli) is that he is not personally responsible for the irregularity as he cannot be expected to devote the same personal attention to details of post award correspondence as at the award the preaward stages, that the irregularity was due to the subject clerk's ignorance of the rules, to the sections head's superficial check and to the failure of the Collector's office to give instructions at the proper stages. The Head Clerk says that he had heavy pressure of work at that time. He also points out that copies of the references to the Government Pleader asking him to arrange for the payment of the deposit amount to the parties was sent to the Collector also but neither the Government Pleader nor the Collector's office set right matters by pointing out the current procedure. He also contends that he was head clerk till 4-4-1949 only, and that some one also was responsible for the delay in subsequent months upto November 1949. The explanation of the concerned clerk is that he joined as land acquisition clerk only in November 1948 that he remained there only till April 1949 and that he had no time to study the rules thoroughly.

3. The Board considers that the land acquisition officer was primarily responsible and cannot throw blame on the clerks and that the explanations of the head clerk and the clerk are equally unconvincing. However as Sri Charles John has retired from service, the Board submits that no action can be taken against him. The Board therefore recommends that the total amount of loss may be apportioned among the Land Acquisition Officer and section head and the clerk concerned in the proportion of the salaries drawn by them at the time and the amounts or parts of them appertained to the share of the section head and the clerk concerned may be recovered from them and the balance to be recovered from the retired Deputy Collector may be ordered to be written off. The Board is calling for a further report from the Collector in the matter and will submit its report after its receipt.

4. The attention of the Collector is invited to the recommendation made in para 2 above and he is requested to submit the necessary particulars of amounts to be recovered and to be written off, at an early date.

for Joint Secretary.

To

The Secretary to Government, Revenue Department, Madras (with records) (Whole)
The Collector of South Kanara (Whole.

ARS.3/2/53.

Copy of Ref.Special C.B.No.15/51 from the Collector of South Kanara dated 25-7-1952.

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Sub: LAND ACQUISITION -South Kanara - Udipi/ Municipality Central Ward Town Planning Scheme - Ops.5, 6, 7 etc. on the file of the Sub Judge South Kanara - Payment of additional interest - Further report - submitted.

Ref: Board's Ref.I.10063/51-1, dated 14-2-1952.

The additional interest of Rs.292/12/3 was drawn from the Provincial funds and remitted it in the court on 7-3-1952, for payment to the parties concerned.

2. As already reported in my Ref.S.L.641/48 dated 14-12-1952 Sri Charles John was the Revenue Divisional Officer Coondapoor and L.A.Officer during the entire period of 1949. He is now the Collector of Tiruchirapalli. He was requested by me to offer his remarks as to how the instructions in Rule 8 of the rules regarding the payment of compensation printed in Appendix II - Part III of the L.A.Manual came to be overlooked by him as L.A.Officer in this case. His explanation dated 29-6-1952 is enclosed. I have also obtained the explanation of the clerk then in charge of the L.A. work and the Head clerk of the Office of the Revenue Divisional Officer, Coondapoor. The explanations dated 12-5-52 of Sri F.A. Carvelos who was the subject clerk and of Sri W.J.McCausleas, the then Head Clerk of the Revenue Divisional Office through whom all Revenue papers passed for Revenue Divisional Officer's orders are enclosed.

3. In his explanation dated 29-6-1952 Sri Charles S.John points out that it is more the responsibility of the subject clerk and the section head than that of the Land Acquisition Officer to see that the rules laid down are observed in the disposal of references of the kind and that it is incorrect to expect the Land Acquisition Officer who has multifarious other duties to perform an Revenue Divisional Officer to go deep into every detail in the midst of his heavy work. Further, he says that if the Collector's Office had given him timely instructions the departure from the rules could have been avoided. I do not think that this is a convincing explanation. While the responsibility for due observance of rules is that of the subject clerk and the section head, the Land Acquisition Officer cannot throw the entire blame on them when he was aware of the protracted correspondence that was going on between himself and the Government Pleader regarding the payment of the enhanced compensation. The Collector's Office had taken prompt action in inviting attention the Land Acquisition Officer to the decree and judgment of the Sub Judge and requesting him to take immediate action for getting the necessary funds deposited in the court. The main reason for the delay appears to be the non-receipt of the copies of decree and judgments by the Land Acquisition Officer in time and even when he received them they had to be returned to the Government Pleader for rectification of some mistake regarding the court costs. This has already explained in detail by me.

4. As stated by Sri Charles S.John in his explanation the irregularity occured un-wittingly and unintentionally. The resultant loss caused to the Government being little it may be recommended to Government for being waived.

5. The Revenue Divisional Officer, Coondapur reports that the reports relating to the award proceedings concerned in this case are not traceable in his Office. I have asked him to make a thorough search and trace the records without delay. They will be submitted on receipt from him.

(True copy)

Copy of letter No.Nil from the Collector of Tiruchirapalli dated 28-6-1952 to the Collector of South Kanara.

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Sub: LAND ACQUISITION (South Kanara) Municipality Central Ward Town Planning Scheme -OP.Nos.5, 6, 7 etc. on the file of the Sub-Judge, South Kanara Payment of additional interest on enhanced compensation caused on account of irregularity in procedure - explanation.

Ref: Your Ref.Special C.B.15/51 dated 12-6-1952.

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As the then Land Acquisition Officer of Coondapur Division, I have been called for now to explain my failure in not having observed the procedure laid down (in rule 8 of the Rules regarding payment of compensation printed in Appendix II of Part III of the Land Acquisition Manual) in respect of the

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enhanced compensation amounts remitted by the Udipi Municipality in Udipi Sub-Treasury in respect of O.P.Nos.5,6,7etc on the file of the Sub-Judge, South Kanara. Matters of the kind viz. remittance of the enhanced compensation amounts ordered by the Court, their credit to proper head and their disbursement generally emanate long after the regular land acquisition proceedings are over. It is a fact that offshoots crop up in the completed land acquisition proceedings. A Land Acquisition Officer is not expected to bestow (much less, has it been so envisaged in the Manual) as much personal attention as he is expected to devote in the preliminary stages of the acquisition proceedings and in the pronouncement of the Award. Such references become ordinary routine references like any other references received in a Divisional Office in the ordinary course, and it is more the responsibility of the subject clerk and the section head rather than the officer to see that the rules laid down are observed in their disposal. I find that the subject clerk has taken shelter under the plea of newness of the seat and the Divisional Office Head clerk has excused himself on the ground of heaviness of work. They cannot disown their responsibility in the matter so lightly. It is incorrect to expect a Land Acquisition Officer who had multifarious other duties to perform as Revenue Divisional Officer to go deep into such trivial details in the midst of his heavy work.

App 33 part III ch XXV BK RC 59

2. In this connection, I invite your kind attention to para 3 of Part III (Chapter XXX) of the Land Acquisition Manual. Though the Collector's Office was made aware of the remittance of the compensation amount into the Sub-Treasury by the letter of the Municipal Commissioner in his No.Rec.C.1.3732/46 dated 20-1-49(copy sent direct) and also of the direction issued by me as Land Acquisition Officer in my letter No.190-B/49 dated 31-1-1949 to the Government Pleader, it had also failed to give proper directions or guidance. If the Collector's Office had given timely instruction, the departure from the rules could have been rectified and the present loss to Government avoided.

3. Several factors viz., the ignorance of the rules by the subject clerk(1) the superficial check by the section head of the Divisional Office (2) failure of proper or timely instruction from the Collector's Office (3) had contributed to the non-observance of the rules prescribed in the case and had caused the irregularity. The irregularity has come to pass unwittingly and unintentionally by the several persons and I consider that the resultant loss, which is negligible may therefore be recommended to Government for being waived. In any case, it is not proper to hold that the Land Acquisition Officer as responsible for not looking into such minor details in the midst of his other heavy work.

4. The following files received with your letter cited are herewith returned

(A) (a) Your Office Current File B.1.641/48 (pages 775 to 1224)
(b) Your Office Current file - Pages 1225 to 1292)
(c) Coondapur Revenue Divisional Officers's D.Dis.190/49 dated 3-6-51.

(True copy)

Explanation of the Hen d Clerk Mangalore dated 4-6-1952.

To: The Collector of South Kanara, Mangalore.

Sir,

With reference to your N.R.T.C.B.15/51 dated 23-5-1952, I beg to explain as follows:

I was in charge of the post of the Head Clerk of the Revenue Divisional Officer's Office, Cojandapur temporarily for a period from 2?s12-48 to 4-4-49. As usual all papers used to pass through the Head Clerk at the time.

The draft letter R.f.190-B-49 dated 31-1-49 put up by the subject clerk was as usual passed through me. In this letter it was reported that the amount of

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enhanced compensation, court costs and interest upto 20-1-49 (date of deposit) was remitted into the Udipi Sub-Treasury by the Commissioner Udipi Municipality and it was also intimated to the Collector in this very letter that the Government Pleader had been separately addressed to make arrangements for the payment of the amount to the claimants concerned. I regret to state that unfortunately for me, the irregularity now noticed escaped detection even in the Collector's Office after receipt of the Revenue Divisional Officer's letter referred to. It is equally unfortunate that the Government Pleader also did not enlighten the Revenue Divisional Officer on this point though he was reminded several times.

As Head Clerk of the Coondapur, Revenue Divisional Officer's Office, I had to attend to many papers mostly urgent ones and the Jamabandy of the Karkal and Udipi taluks was also being conducted at the time. Amidst my multifarious work, the draft letter put up by the subject clerk was unwittingly passed by me.

The delay in the disbursement of the compensation amount covers a period of a bout 11 months from 20-1-49 (date of deposit to 30-12-49.. I was reverted from Head Clerk's post on 4-4-49. At any rate I am not responsible for the delay from 5-4-49 till 30-12-49. Taking all the above facts into due consideration, I beg to be excused this time.

(True copy)

Explanation of Ex.Clerk Revenue Divisional Officer's Office dated 12-5-1952.

To: The Revenue Divisional Officer, Coondapoor.

Sir,

With references to the Revenue Divisional Officer's Orders in C.No.3639/52-B, I submit as follows:

I was put in charge of B Clerk's seat for the first time early in November, 48, and continued in that seat upto 22-4-49. It was not possible for me in that period to have read and mastered the Rules on the subject of Land Acquisition which are voluminous and highly technical.. On receipt of Collector's order Ref.Ml.641/48 dated 30-12-48, the Commissioner was requested in his Office Ref.B.190/49 dated 9-1-1949 to deposit the amount into the court. But the Commissioner instead deposited the amount into the Sub-Treasury and intimated having done so to this office in his Ref.3732/46 dated 20-1-1949 a copy of which was sent to the Collector also. The fact of the amount having been deposited into the Sub-Treasury was intimated to the Collector in Ref.B.190/49 dated 31-1-1949. The draft of this report, as well as subsequent letter to the Government Pleader on the subject, had passed through the Head Clerk. Neither did the Head Clerk point out to me that action to have the amount transferred to Civil Court deposit should be taken nor did the Collector on receipt of either the Commissioner's letter referred to above or this office report dated 31-1-1952 nor even on receipt of copy of this office letter dated 29-3-49 to the Government Pleader, Mangalore point out that the Municipal Commissioner had credited the amount into the Sub-Treasury and that steps should be taken to have it transferred to Civil Court deposits in favour of the Sub-Judge.

I therefore submit that my failure to take action to have the amount transferred to Civil Court deposits was due to my lack of knowledge of the rules on the subject. I may therefore be excused for the omission on my part.

(True copy)

for Joint Secretary.

ARS.3/2/53.

MLR 3/2/53

Proceedings of the Revenue Divisional Officer dated 2--3--1948.
in L.A. Case Award No.1/48.

PRESENT: Sri S.Koteeshawara Rao, B.A.,Part I Introduction.

The Commissioner of Udipi Municipality having applied forthe acquisition of certain lands for the Town Planning Scheme, preceedings have been started to acquire the lands under the provisions of the land Acquisition Act read with the Madras Town planning Act, 1920, and the rules framed thereunder. The notification under Section 12 of the T.P.Act was approved in G.O.Ms.No. 3809 P.H. dated 9.12.42 and published at page 894, of the Fort St. George Gazette dated 15.12.1942. Under section 35 2(A) of theAct, this notification operates as a draft notification under section 4(i) of the L.A. Act and consequently the market value has to be determined with reference to the condition existing on the date of the publication of that notification.

The notification under Section 4(3) of the Madras Town Planning Act was approved in G.O.No. 1637 P.H. dated 24.5.45 and was published at page 160 in the Fort St. George Gazette dated 3.7.45. This notification read with sec.34. of the Madras Town Planning Act has the force of a draft declaration under section 6 of the L.A. Act. The Revenue Divisional Officer has been appointed as Land Acquisition Officer in G.O Ms.No. 2628 P.H. dated 5.9.46 published at page 253 of Fort St.George Gazette dated 17.9.46.

Notices under section 9 and 10 of L.A. Act havebeen duly served on all the parties interested and award enquiry was posted to 26.11.1947 and 27.11.47.

In a few of the items which are below I bent, the adjusted areas has been noted instead of the actual area due to a clerical mistake. Hence fresh notices were issued posting the award enquiry to 6.12.1947.

All the lands have been inspected by me and the Special Tahsildar, who appointed to assist the land acquisition officer.

PART II GENERAL DISCUSSION.

It is necessary to make a brief statement about the difficulties in valuing the properties, the principles adopted in fixing the compensation and the objections received.

1. In manycases, there are buildings, or portions of buildings or structures like wells, latrines, etc., or fruit bearing trees, Practically and the items to be acquired are situated in the midst of a built up area and sales of similar lands or houses have been rare. Hence the method of working out the value of buildings on the rental basis has been followed, in preference to the method of valuing the sites and building materials and adding the two, which some of the owners wanted me to do. The rental value as per the Municipal Assessment registers, has been taken as a basis and capitalised. The actual municipal tax and the land revenue payable on the land has been deducted One month's rental has also been deducted towards the cost of annual repairs. This item of deduction has been upheld by the Madras High court in a case under the Land Acquisition Act. The net rental so worked out, has been capitalised at 20 years' purchase.

Mr J.A. Parks, in his book on "Principles and Practice of Valuations" has discussed the subject at length and has given his opinion about residential property as follows:--

Residential house property according to the circumstances and particulars of each case will vary from 5 to 7½ per cent security and the years purchase will vary between 13 and 20".

The latest case law on the subject is the Madras High Court Ruling. Sub Collector Rajahmundry versus parthasarathi (page 127 of the L.R. Madras 1943) where the High court has held that 20 years purchase is a fair compensation in the case of immovable properties, where there is no better data for fixing the values.

2. In most of the properties, the "muli right has to be valued separately, This right is said to be a very good form of security immune from all risks such as fire, loss seasonal fluctuations and the like. This landlord's right is similar to melvaram right in a zamindari estate. For valuing the interest the P.T.O.

STATISTICS OF SALES.

Serial No.	Village	S .No.	Area.	Rate	Date of transaction.
1	Shivalli.	110/A4	0-08.	3000/-	Award 6/42 dated December, 1942, 4(i) notification March, 1942.
2	do.	110/B 10,13A.	0-15.	3000/-	Award 10-43 December 44.4(i) Notification June 1944
3	do.	110/A3. Document 839-39	0-33	3000/-	24-6-1939. Vendee T.Upendra Pai.
4	do.	110/A1	0-10	5000/-	Vendee Devanna Shetty, Document No. 739/7.7.1938.
5.	Mudanidambur	130/2A1B	0-01	2000/-	Award 2/38, Aug. 38 Draft notification published in March,1938. (Plot near the present Municipal Office.)
6.	do.	110/1B &10B	0-09	2000/-	Award 1-40.April 1940, for a bus stand, Notified in 1939.
7.	do.	11 8/1B	0-02	3225/	Award 3/45, February, 45 for a lane notified in October, 1944, (part of cannara Banking Corporation office compound)
8.	do.	110/2B	0-28.	4000/-	Award.7/45, October, 45. Draft notification unpublished in March 1945 (for bus stand.)

Group-I S.Nos. 115, 116A--Shivalli village and S.Nos.110 and 111 of Mudanidambur village.

The lands referred to in item 2 were required in subCollector's award No. 8/44, and compensated at Rs.3000/- per acre The notification under section 4(i) of the land acquisition Act was published in June, 1944, These lands lie, within Shivalli village limits at a distance of about two furlongs to the South of Group I block, in a more important and wealthier part of the Town. Though the acquisition represents land value as current in June, 44 and was therefore subsequent to December, 1942 still I think it can be adopted. The awardees may not possibly have any objection, since the price of land has been on the increase during the period from December, 1942 to June 1944.

There is another acquisition which each be relied upon, for the market value of this group, It is item No.7 above. This land was notified for acquisition in October, 1944, and compensation paid at Rs.3225/- per acre. The plot lies exactly 150 yards to the South of S.No:115/1A of Shivalli village, which is covered by the present acquisition proceedings. Making a deduction on account of rise in prices subsequently to December, 1942, and considering the locality (group I) which is undoubtedly less important than S.No.118 I fix the market value of group 1 at Rs;3000/- per acre.

Group.II.S.No.118, 119, 120 (except 129/9A) and 116/21B of Mudanidambur village.

I value this group at Rs.3200/- per acre on the following data.

The land referred to in item 7 is at the northeastern corner of group II area where the new road starts. The starting point of this road is only 50 yards, yards from the plot acquired in February, 1945.

The acquisition covered by items (1) and (2) in the list relate to lands acquired in shivalli village limits but situated a fewyards from the South West Corner of Group II area. Both these transaction relate to periods subsequently to December, 1942, but still there can be objection from the awardees, since the value during the intervening period has been on the increase or at the most stationary but certainly not on the decrease. Relying on these two land acquisition awards, I fix the market value of this group at Rs. 3200/- per acre.

Propose to value S.No.116 which is in group III area at Rs.3500/- per acre.

P.T.O.

The land value which was Rs.2000/- in the latter part of 1939, rose to Rs.4000/- in March, 1945. What is required in this case is the market value prevalent in December, 1942. Taking into account the pace of rise in prices based on the above two awards, I fix the value of this block at Rs.3500/- per acre. 16

Item (6) S.No.110/21B--25 cents.

This is the portion of a cocoanut and arecca garden. Along the eastern boundary, there is a pucca compound wall put up by the owner, but which for unknown reason falls in the adjoining survey field. When the narrow strip along the eastern boundary is acquired, the utility of the wall to the owner will disappear. As there will be no protection to his garden, the owner will have to construct a new wall as protection for his garden. He is therefore entitled to the cost of the wall together with damages. A portion of the mud wall is also affected by the acquisition. At the northwest corner of the subdivision, there is a mud walled house on an extent of 462 sq.ft. out of which an extent of 196 sq.feet will have to be demolished. The latter area is the back portion containing two rooms. The part of the building that remains is only the verandah. Practically thewhole building has to be pulled out.

1. Value of 25 cents of land at Rs.3000/- per acre.			Rs.750-0-0
2. Value of structures.			Rs.306-0-0
3.Damages (50% of item 2)			Rs.153-0-0
4. Capitalised value of the house			
Gross rental of the house.	Rs.32-0-0		
DEDUCT			
Municipal taxes.	Rs. 7-6-6		
One monthly rental for repairs.	2-10-8		
Net rental.	21-14-10		
Capitalised value at 20 years purchase.	438- 8-8		
Deduct cost of site already included in item (1) above 1 cent @ Rs.30/-	30- 0-0		
Net.	408- 8-8		
or	408- 9-0	408-9-0	
		Rs.1617-9-0	

The owner wants the present proceedings to be drooped and the locality to be resurveyed and also objects to the alignment but I see no necessity to concede these objections. He also claims a rate of Rs.12000/- per acre for which he has not given any basis. If it is valued as a garden land on the basis of the rental value, the valuation will be very much less than that of the building site as has been valued in this case. For the portion of the building acquired, no damages are due as the capitalised value of the entire building has been allowed.

OWNERSHIP AND APPORTIONMENT.

The mulgi right is held by Sri Krishna Dev which receives a mulgeni rent of Rs.16/- on 64 cents of this plot and 29 cents in S.No. 110/9 with a liability to pay land revenue of Rs.2-14-0 plus Rs.1-10-0 equals Rs.4-8-0. The rental rental is Rs.11-8-0 The Proportionate rental on 25 cents is therefore Rs.3-16.
Capitalised at 29 times this comes to Rs.89-11-6
or Rs.89-12-0

This is payable to the mulgar Sri Krishna Dev. The balance is payable to the mulgenidar Sri B.Ananthe Krishna Achar. The apportionment will therefore be as follows:-

1. Sri Krishna Dev. (Mulgar)		Rs.89-12-0
2. Sri B. Ananthakrishna Achar.	...	1,527-13-0
Total	...	1,617- 9-0

Payment:

The mulgar is not competent to alienate the property. The amount will therefore be deposited in civil court under Sec.31(2) of the L.A. Act. The compensation due to the mulgenidar will be paid to him.

(P.T.O.

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(iii) The person or persons to whom the compensation is due:-

Serial number.	Name.	Rs.	A.	P.
6(a)	Sri Krishna Temple Udipi (Mulgar)	89	12	0
xx	xx		xx	

/True Copy/

Part IV - Calculation of compensation.

ACQUISITIONS IN S.NO.111.

Item (1) S.No.111/11B - 2 cents.

This is the southern edge of a house compound. It contains a compound wall of granite stones and mud.

1) Value of 2 cents of land at Rs.3000/- per acre.	Rs.60-0-0
2) Value of structures	38-0-0
3) Damages (50% of item 2)	19-0-0
Total...	117-0-0

The entire amount will be paid to the owner H.Panduranga Rao, Item (2) S.No.111/11C - 1 cent.

This is a portion of the same house compound along its eastern boundary. It contains a portion of an entrance with a tiled roof, a mud wall, a wicket gate and two trees, the details of which are given in a separate statement.

1) Value of 1 cent of land at Rs.3000/- per acre	Rs.30-0-0
2) Value of structures	103-0-0
3) Damages (50% of item 2)	51-8-0
Total...	184-8-0

The whole amount will be paid to the owner H.Panduranga Rao.

Item 3 - S.No.111/9B - 1/2 cent (adjusted area 1 cent)

The small bit to be acquired is at the entrance to a house. It contains two small cement plals, pillars of an entrance and a mud wall as detailed in a separate statement.

1) Value of ½ cent of land at Rs.3000/- per acre	Rs.15-0-0
2) Value of structure	30-0-0
3) Damages (75% of item 2 as cement is not easily procurable in these days).	22-8-0
Total...	67-8-0

OWNERSHIP AND APPORTIONMENT.

The mulgan is K. Sadananda Kamath, who gets a mulgeni rental of Rs.9/- on 36 cents. The land revenue payable on this extent is Rs.2-7-0. The net rental is therefore Rs.6-9-0. The proportionate net rental on ½ cent works out to 0-1-6. Capitalised at 29 times this comes to Rs.2-11-6 or 2-12-0. The balance is payable to the mulgenidar N.Dattatraya Rao. The payment will be as follows:-

1) K. Sadananda Kamath (Mulgan) S/o K. Ananthaya Kamath	Rs.2.12.0
2) N. Dattatraya Rao (Mulgenidar)	64-12-0
Total...	67-8-0

Item (4) - S.No.111/10B - 4 cents.

The Portion to be acquired is the entire mud wall godown and includes a jack tree, a cocoanut tree, a mud wall, an entrance and a door. There is also an outhouse, which runs from west to east, and facing the South. The upper storey of this is used for storing materials like fuel etc. The ground floor is used a cowpen. It has mud walls with laterite stone pillars and consists of 4 compartments. One and a half compartments, have to be demolished as a result of the acquisition. Behind the godown, there is a residential house unconnected with it, a vacant space, intervenes between the two. Hence, the residential portion is not affected.

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VALUE OF THE SITE.

Gross rental of the godown per year.		Rs.30-0-0
Deduct		
Municipal Taxes per annum.		0-9-2
One month's rental for repairs		2-8-0
Net rental per annum		26-14-10
Capitalised value at 20 years purchase		538-8-8
	or	538-8-0
Value of structures ie. portion of sowpen mud wall, door etc.		Rs.153-0-0
Damages (50% of item 2)		76-8-0
Value of 2 cents covered by sowpen etc. excluding the godown		
2 cents @ Rs.3000/- per acre.		60-0-0
	Total...	828-0-0

The godown is assessed separately as Door No.3810A in the Municipal accounts and as compensation is paid for the entire building no damages are due. The capitalised value of the building includes also the cost of the land on which it stands. Hence no separate value need be paid for the site on which the godown stands. Compensation for the site xxxxxx covered by the sowpen, compound wall, etc., has already been included in the above valuation. The owner also alleges that his well will also be affected, but this is not so. The entire well portion lies within the limits of the owner's land beyond the acquired portion. The owner also claims a rate of Rs.15000/- per acre and Rs.6000/- for the building, but there is no basis in support of this valuation. The entire amount will be paid to the owner K.Laxminarayana Pamath.

Item 5 S.No.111/2B - 4 cents.

The area to be acquired includes the front of a strongly built godown a gate, a stone compound wall of granite and laterite, a wicket gate and cement steps of a house.

VALUATION.

1) Value of 4 cents of land at Rs.3000/- per acre	Rs.120-0-0
2) Value of structures (omitting the godown portion.)	188.0.0
3) Damages (75% of item 2) as the structures are fairly strong and the steps are cemented).	141-0-0
	449-0-0

4. Godown.

The godown measured 3412 sq.ft of this the portion to be acquired is 350 sq.ft. The capitalised value of the whole building is worked out as follows:-

Gross rental value	Rs.400-0-0
Deduct.	
Municipal taxes.	47-5-2.
One month's rental for repairs	33-5-4.
Net rental.	319-5-6.
Capitalised value at 20 years' purchase:-	6386-14-0
4) Proportionate value of the area to be acquired.	655-3-0
5) Damages (twice of item 4) ...	1310-0-0

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In view of the fact that the building has to be practically cut and that it is the front portion that has to be demolished, necessitating structural alterations, and putting up of new basements, walls etc., I award twice the value as damages. The aggregate compensation awardeable comes to ... Rs.2414-3-0

In capitalising the value of the building, I have adopted the rental value of 1942-43 but not the present rental value which is no doubt higher.

The owner claims damages on account of the acquisition of a flight of steps in front of a small house which have also been acquired. His contention is, that the entrance to the house will be cut off but there is no such fear. The area acquired will be a road margin and not a road, as this is a case of widening an existing road and not laying out a fresh road. The owner may therefore, apply to the Municipality, and obtain a licence as steps are essential to have access to the house from the road.

OWNERSHIP AND APPORTIONMENTS.

The mull right is held by minor Cholava by guardian Nagappava. He received a mulgeni rental of Rs.12/- on an extent of 14 cents. The land revenue payable on this extent is 0-13-0. The net rental is therefore Rs.11-3-0. The proportionate rental on 4 cents if Rs.3-3-2.

Capitalised at 29 times, this comes to Rs.	92-11-10
or	Rs.92-12-0

The balance is payable to the mulgenidar, the Canara Land Investments Ltd., The apportionment will be as follows:-

1) Minor Cholava by guardian Nagappaya (Mulgar)	Rs.92-12-0
2) The Canara Land Investments Ltd., Udipi (Mulgenidar)	2321- 7-0
Total...	2414- 3-0

PAYMENT: The Mulgar is not competent to alienate the property. The amount will therefore be deposited in civil court under Sec.31(2) of the L.A.Act. The compensation due to the Mulgenidar, will be paid.

ITEM (6) S.No.111/1B - 3 CENTS.

The area to be acquired is part of a vacant house site, enclosed by a compound wall of laterite cut stones with cement plastering on the tops (4 inches) imbedded with glass pieces, most of which have fallen away. It also includes portion of a wall, a portion of a compound wall and a slight portion of a tiled roof of motor shed. Details of these structures are noted in a separate statement

1) Valueof the site 3 cents at Rs.3000/- per acre	Rs.90-0-0
2) Value of structure	337-0-0
3) Damages (75% of item 2 for the reason that cement plastering is costly now) ...	253-0-0
4) Value of the well which is 8 ft. in diamiter and 25 ft. deep. It has no platform. The parapet wall and the pillars have not been plastered.	500-0-0
Total...?	1180-0-0

I have allowed Rs.500/- which represents the cost of sinking a similar well at present. The existing well though a portionof it is acquired will be rendered useless and will have to be closed. Hence I have awarded the cost of a new well

OWNERSHIP AND APPORTIONMENT.

The mull right is held by minor Cholava, y guardian Nagappaya. He receives a mulgeni rental of Rs.6/- on an extent of 47 cents. The land revenue payable is Rs.2-10-0. The net rental comes to

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Rs.3-6-0. The proportionate net rental on 3 cents is therefore 0-3-5.
Capitalised at 29 times, this works out at Rs.6-3-1.
or Rs.6-3-0.

The balance is payable to the mulgenidar. The apportionment will be as follows:-

1) Minor Cholaya by guardian Nagarpaya (Mulgar) ...	Rs.6-3-0
2) Halinabibi, w/o Ummer Bapoor Saheb, Udipi (Mulgenidar) ...	Rs.1173-13-0
Total..	1180- 0-0

PAYMENT.

The Mulgar being a minor is not competent to alienate the property. The amount of compensation due to him will be deposited in Civil Court under Section 31 (2) of the Land Acquisition Act. The compensation due to the mulgenidar will be paid to her.

Item (7)

The landplan of the municipality shows S.No.110/7A also as required for a play of a road but as it has not been notified acquisition proceedings will be taken up separately.

Sd/- x x x
Land Acquisition Officer.
& Rev.Divl.Officer, Coondapur.

/True Copy/

SMP.3/2.

(P.T.O.

No.1/48. A W A R D.

(To be filled in by the land Acquisition officer in his own hand)
Made by S.Koteshwara Rao, B.A. Deputy Collector Coondapur.
(Under section 11 of the Land Acquisition act I of 1894) read with section 35 of Madras act II of 1920.

Whereas an extent ofland measuring acres 0.50 adjusted and situated in the village of Mudanidambur village in the taluk of Udipi in the registration sub district of Udipi, in the district of S.Kanara and registered in the name of or occupied by, the persons specified below, has been declared by Government at page 160 of the Fort St.George Gazette Part I-A dated 3-7-45 to be needed for the Central Ward town planni g scheme, Udipi.
the undersigned, after full enquiry into the case and on due consideration of the various circumstances connected with the acquisition as herebefore set forth, makes the following award under his hand:-

i) the true area of the land in acres: 0.50 1/8 cents.
ii) the compensation allowed for the land in Rs.1503-12-0 as shown below:-

a)1) the market value of the land subject to full assessment peishkush or ground rent as the case may be and in the case of house site held free its market value as such exclusive in all cases of trees buildings and standing crops vide B.S.O.No.90 paragraph 14 (1)(i) at Rs.3000/- 1503-12-0
2) In the case of inams other than those mentioned in paragraph 14(ii) of B.S.O.No.90 compensation for loss of privilege calculated at 20 times the assignment of Govt. revenue to which the inamdar is entitled- vide B.S.O.No.90 Paragraph 14(1)a(2)

3) In the case of inams coming under para 14(ii) of B.S.O.No.90 the amount of net assessment guaranteed to the inamdar at the time of the inam settlemen on the extent acquired, with represents the melwaram interest is Rupees.
Note: The value of the compensation for the kudivaram interest is to be entered against item (ii)(a)(1) above.

b) Valuation on account of uildings wells, crops trees etc. 3113-15-0
( ) 15 per cent on items (a)(1) and (2) and (b) Other demages, if any to be specified) 380- 5-0
Total... 5598- 0-0

Rupees five thousand five hundred and ninety eight only

/True Copy/

SVP.3/2.

Copy of the letter from the Collector of South Kanara, Manglore to the Secretary, Board of Revenue, Chepauk, Madras, Ref. Spl. L.A. 13/51, dated 26-10-52.

Sub:- LAND ACQUISITION (South Kanara) Udipi Municipality - Central Ward Town Planning Scheme - O.Ps. award, etc. on the file of the Sub Collector of Payment of interest- Records submitted.

Ref:- Board's ref. I.-10063/51-6, dated 20-10-52.

Copies of award in L.A.C. 6/47 and 1/48 of the Revenue Divisional Officer, Coondapur are enclosed. Presumably L.A.C. 60/47 referred to in the Board's reference cited is a mistake for L.A.C. 6/47.

2. I have separately addressed the Revenue Divisional Officer, Coondapur to submit at once the original records, if traced and they will be submitted as soon as received.

/True copy/

Proceedings of the Revenue Divisional Officer, Dated 28-12-1947.

Made by S. Koteswara Rao, B.A., Dy. Collector, Coondapur.

Under section 11 of the Land Acquisition Act I of 1894 read with section 35 of Madras Act II of 1920.

Whereas an extent of Land measuring 0.14½ cents (Land situated in the villages of Udipi in the taluk of Udipi in the registration sub district of Udipi in the district of South Kanara and registered in the names of, or occupied, by the persons specified below, has been declared by Government at page 160 of the Fort St. George Gazettee Part I A dated 3-7-45 to be needed for the Central Ward Town Planning Scheme of the Udipi Municipality

I, the undersigned, after full enquiry into the case and on consideration of the various circumstances connected with the acquisition as herebefore set forth, makes the following award under

(i). The area of the land is acres 0.14½ or 12½ cents.

(ii) The compensation allowed for the land is Rs. as shown below.

(a) (1) The market value of the land, subject to full assessment peshkash or ground rent as the case may be and in the case of house site held free its market value as such exclusive of buildings and standing trees but including all the items to be paid for under paragraph 14(1) of the B.S.O. No. 30 as Rs. 3000/- per acre (12½ cents site) 375 0 0

(2 cents building)

1. In many cases there are buildings or portions of buildings or structure like walls, latrines, back yard, other than those mentioned in paragraph 14(1) of the B.S.O. No. 30 compensation for loss of privilege calculated at 20 times the assignment of government revenue to which the landholder is entitled under paragraph 14(2)(1) of the B.S.O. No. 30.

The rental value as per the Municipal Assessment registers, has been taken as a basis and adding the two, which some of the owners want to materialise and selling the two, which some of the owners want to materialise and selling the two, which some of the owners want to materialise and selling

(b) Valuation on account of buildings wells, crops etc.,	2942	11	0
(c) 15 percent on items (a) (1) and (2) and (b)			
(d) Other damages if any (to be specified) (for injurious affection of property)	1873	8	0
Total	4791	3	0

Rupees four thousand seven hundred and ninety one and annas three only.

Proceedings of the Revenue Divisional Officer dated 28-12-1947.
PRESENT: Sri. B. Koteswara Rao, B.A.,

Part I Introduction.

The commissioner of Udipi Municipality having applied for the acquisition of certain lands for the Town Plannning Scheme, proceedings have been started to acquire the lands under the provisions of the Land Acquisition Act read with the Madras Town Planning act, 1920. and rules framed thereunder. The notification under sec 12 of the T.P. Act was approved in G.O. Ms. No. 3809 P.H. dated 9-12-42 and published at page 894 of the Fort St. George Gazettee dated 15-12-42. Under section 35 2 (a) of the Act this notification, operated as a draft notification under section 4 (1) of the L.A. Act and consequently the market value has to be determined with reference to the conditions existing on the date of the publication of that notification.

The notification under section 14 (3) of the Madras Town Planning Act was approved ib G.O. No. 1637 P.H. dated 24-5-45 and was published at page 160 in the Fort St. George Gazettee dated 3-7-45. This notification read with Sec. 34 of the Madras Town Planning Act has the force of a draft declaration under sec. 6 of the L.A. Act. The Revenue Divisional Officer has been appointed as Land Acquisition Officer in G.O. Ms. No. 2629 P.H. dated 5-9-46 published at page 253 of Fort St. George Gazettee dated 17-9-46.

Notices under Section 9 and 10 of L.A. Act have been duly served on all the parties interested and award enquiry was posted to 26-11-47 and 27-11-1947.

In a few of the items which are below 1 cent, the adjusted area has been noted instead of the actual area due to a clerical mistake. Hence fresh notices were issued posting the award enquiry to 6-12-1947.

All the lands have been inspected by me and the Special Tahsildar, who is appointed to assist the land Acquisition Officers.

PART II GENERAL DISCUSSION.

It is necessary to make a brief statement about the difficulties in valuing the properties, the principles adopted in fixing the compensation and the objections received.

1. In many cases there are buildings or portions of buildings or structure like wells, latrines, etc., or fruit bearing trees, practically all the items to be acquired are situated in the midst of a built up area and sales of similar lands or houses have been rare. Hence the method of working out the value of buildings on the rental basis has been followed in preference to the method of valuing the sites and building materials and adding the two, which some of the owners wanted me to do. The rental value as per the Municipal Assessment registers, has been taken as a basis and capitalised. The actual municipal tax and the land revenue payable on the land towards has been deducted. One month's rental has also been deducted towards the cost of annual repairs This item of deduction has been upheld by the Madras High Court in a case under the Land Acquisition Act. The net rental so worked out, has been capitalised at 20 years' purchases.

25

Mr. J.A. Parks, in his book on "Principles and Practice of Valuations" has discussed the subject at length and have given his opinion about residential property as follows:

"Residential house property according to the circumstances and particulars of each case will vary from 5 to 7½ per cent security and the years purchase will vary between 13-20".

The latest case law on the subject is the Madras High Court ruling in Sub Collector Ma Jaunndry versus Parthasarathi (page 127 of the I.L.R. Madras 1917) where the High Court has held that 20 years purchase is a fair compensation in the case of immovables properties, where there is no better data for fixing the values.

2. In most of the properties, the muli right has to be valued separately. This right is said to be a very good form of security ammune from all risks such as fire, loss, seasonal to melvaram right in a zamindari estate. For valuing the interest the gross income from the land is taken and the land revenue payable to the Government is ded deducted. The resultant figure will be the net income of a landlord though I am tempted to make a further deduction to cover collection charges, I have not done so, since usually the land, lord himself collects the rent, and recourse to civil courts are rather rare in the case of town sites. The rate of interest on gilt edged securities in December 1942, was 3½ percent and this rate has been adopted in capitalising the interest.

This method is more advantageous to the landlord than the one outlined in the concluding portion of para 1 supra because the "muli" right is more secure than a building, survives longer than a building withstands ravages of time, unlike a building, and is certainly more valuable than a building.

3. Many of the owners have claimed separate compensation for trees, but as the sites have been valued as building sites, the claim has not been conceded (Chapter XV 5) Land Acquisition Manual A list of trees standing in each plot is placed on record.

Another common claim has been 15% solatium. But this is clearly inadmissable under sec. 23(1A) of the Town Planning Act.

The muligars have claimed a portion of the land value and cost of trees etc, since muliright is limited to the receipt of fixed rent, compensation has been paid for that right alone and the other claims have been ignored. No cloth authority has been cited in support of the claim for a share in the compensation due to the mulgenider.

Several owners have claimed that the property should be valued as per the market rates existing now. This is clearly untenable under section 35(2) (a) of the Town Planning Act.

In valuing the structures, such as wells, etc, I have adopted the L.F. schedule of rates current in 1942, and assessed the damages after personal inspection along with the special Tahsildar.

Since the cost of materials and labour has increased after 1942, I have allowed towards damages a sum equal to 50% of the value of the structures. This I consider is sufficient since I have not made any deduction for depreciation.

Sri. B. Vasudeva Rao, Advocate, has argued that "Land" alone can be valued according to 1942 values, and that buildings must be valued according to the values current at the time of acquisition, Reliance is placed for his contention on sec. 35(2) of the T.A. Act which mentions only "land" but not buildings. The word "land" is not defined and I think that it connotes buildings also since the te are inseparable. The General Clauses Act (Imperial) defines land, so as to include buildings also. I do not therefore any force in the contention.

Very high rates have been claimed by the owners forgetting the fact that the Town Planning Act is less liberal than the Land Acquisition Act.

9. The areas accepted by me are those certified by the Dt. Surveyor, as correct, most of the owners have disputed the correctness of the areas without saying how they are incorrect, and what the correct areas are. The objections seems to have been in a routine manner.

PART III VALUATION OF SITES

The area in which existing roads are to be improved, or new roads to be formed, is a compact one situated within Udipi Municipal limits and lying to the east of Mangalore Coondapur Road, which runs through the Municipal area. Hence the lands to be acquired are to be valued as building sites. It is mostly a built up area and consists of the following survey fields.

S.No. 115,116,11 of Shivalli village.
S.No. 116,118,119,120,111 of Mudanidambur village.

Sales of vacant sites in or about December 1940 have been few, or none, and my valuation is based after personal inspection considering the locality and the meagre data available. For the sake of convenience, I shall divide the area into groups and fix one rate for each group.

The following are the sales of vacant lands in the locality so far as could be gathered.

STATISTICS OF SALES.

Village	S.No.	Area	Rate	Date of transaction.
Shivalli.				
do	110/A4 10.08		3000/-	Award 6/42 dated Dec 42 4a(1) notification March 42
do	110/5 10.13A	0.15	3000/-	Award 10-43 Dec. 44 4(1) notification June 1944.
	110/A3	0.33	3000/-	24-6-1939. Document 839-39 Vendee T.Upendra Rai.
	110/A1B	10	3000/-	Vendee Lakshmamma Chetty, Document No.7759/7-7-1938
Mudanidambur	130/2A1B	0.01	2000/-	Award 2/38, Agri. 38 Draft notification published in March 1938. (Plot near the Present Municipal Office
do	110/1B 10B	0.09	2000/-	Award 1.40 April 1940, for a bus stand. Notified in 1939
do	110/1B	0.02	3885/-	Award 3/44 Dec. 45. Draft notified in Oct. 1944, (part of Canara Banking Corporation office compound)
do	110/2B	0.38	4000/-	Award 3/44 Dec. 45. Draft notification published in Mar 1945 (for bus stand)

Group I-S Nos. 115, 116A - Shivalli village and S.Nos. 110,111 of Mudanidambur village.

The lands referred to in item 2 were acquired in Sub Collector's award no. 8/44 and compensated at Rs. 300/- per acre. The notification under section 4 (1) of the Land Acquisition Act was published in June, 1944. These lands lie, within Shivalli village limits at a distance of about two furlongs to the south of group I block, in a more important and wealthier part of the town. Though the acquisition represented land value as current in June 44 and

and was therefore subsequent to December 1942 still I think it can be adopted. The awardees may not possibly have any objection since the price of land has been on the increase during the period from December 1942 to June 1944. It is another acquisition from which can be relied upon for fixing the market value of this group. It was to this that Rs. 7 was notified before acquisition in October 1944 and compensation awarded at Rs. 3225 per acre. The plot lies exactly 150 yards to the south of S.No. 115 of Shivalli village which was covered by the present acquisition proceedings. Making a reduction on account of rise in prices subsequent to December 1942 and considering the locality (Group I which is undoubtedly better than S.No. 115) I fix the market value of group I at Rs. 3000/- per acre.

Group II S.No.s 118, 119, 120 (Except 120/2A) and 116/2B of Mudarithabettu village.

I value this group at Rs. 3200/- per acre on the following data

The land referred to in item 1 is at the north eastern corner of Group II area where the new road starts. The starting point of the road is only 20 yards from the plot acquired in February 1945.

The acquisition covered by items (1) and (2) in the list relate to land acquired in Shivalli village limits but situated 50 yards from the south west corner of group III area. Both these transactions relate to periods subsequently to December 42, but still there can be objection from the awardees, since the value during the intervening period has been on the increase or at the most is stationery but certainly not on the decrease. Relying on these two land acquisition awards I fix the market value of this group also at Rs. 3200 per acre.

I propose to value S.No. 116 which is in group immediately to the west III area at Rs. 3200/- per acre. Although S.No. 116 lies just immediately to the west of S.No. 120 I have not adopted the same higher rate because on inspection, I found S.No. 120 as the different of Udipi town. It has no roads, but has only dirty lanes, which are less than 3 feet in width. For these reasons, I consider that S.No. 120 cannot be valued at the rate which I propose to fix for S.No. 116.

Group III S.No.s 116 (Except sub division 21) and 120/9 of Mudarithabettu village.

In this connection, a sale deed on the basis of which Sri. B. Vasudeva Rao, Advocate, Udipi was led me to fix a rate higher than Rs. 5000/- per acre to be examined. The sale was in July 19 and it is argued that the price of land has steadily been on the i since 1939 and that therefore the market value must be fixed at a rate higher than Rs. 5000/- per acre which must have existed in December 1942. But the solitary case cited seems to have been an exception to the existing rates, as can be seen from the statistics given in the list above. From my local enquiry on the spot and from the v ge Shanbhogue, I gather that the plot purchased by Devanna Chetty July 1939 (and two other plots) formerly belonged to the same owne and that they were purchased by these cousins on the same day, and that the vendees (Devanna Chetty beong one of them) had offered competitive prices in their anxiety to rival one another. This presumption is supported by the fact that the plot is still vacant while the surrounding area has already been built upon.

The plot acquired in item (1) lies only 30 yards to the South of Devanna Chetty's plot and was valued at Rs. 3000/- per acre in March 1942.

The plots acquired in item (2) are practically opposite Devanna Shetty's plot with only a road intervening between th land was valued at Rs. 3000/- per acre in June 1944.

There are also private sale deeds of plots in the same survey field to the South of Devanna Shetty's plot which were purchased subsequent to July 1939, at a rate of Rs. 3000/- per acre. One is Item No. 31 on which site there is the present big building called "Chittarangana" building". It is in a more advantageous position (being nearer to the rendezvous of 4 roads where there are shops) than Devanna Shetty's plot. Next to this plot is the building of the Proprietor of Royal Cafe. It is said that the site of this building was also purchased at about the same time as its at the same rate, with a small building in it. (Document could not be got) It may be mentioned in this connection that the rate of sale deed covered by item 4 was discussed at the time of passing Award No. 2/38 (August 38) and also of Award No. 6/42 (December 42) and rejected by the then Land Acquisition Officers.

From the statistics given in the list, it is clear that even in the most important locality of Udipi town, which is undoubtedly the area lying on either side of the main road running from the bus stand to the District Munsif's Court, and the Taluk Office, the rate was never more than Rs. 3000/- per acre during 1942-43. It is significant to note that at the time of which Devanna Chetty's purchase the market value near the bus stand, which is a more important locality, was only Rs. 2000/- per acre (vide items (5) and (8) in the list). For these reasons, I do not consider that the sale referred to in item (4) is a representative transaction.

Further the date of that sale is more than 4 years prior to the draft notification in these proceedings and the Land Acquisition Officer need not take cognisance of such transactions. He is concerned with the rate existing at about the time of the Notification or have taken transactions subsequent to the date of notification because am I convinced that the rates have not been influenced by the contemplated acquisition. The parties cannot agitate the price of land a legitimate grievance since it is an acknowledged fact that the price of land has been on the upward trend but certainly not on the upward trend, since the outbreak of the World War II and the inflation that followed in its wake.

Whatever might be the valuation for 410 A of Udipi, it can never be the same for Group III or group II areas. Group II is certainly less valuable, less salutary, less proximate to the Central part of the town, and is less favourably situated than 410 A area.

As for the valuation of Group III I fix it at Rs. 3500/- per acre

(1) In the award referred to in item 6, land was valued at Rs. 2000/- per acre in the latter part of 1939.

(ii) In the award referred to in item 8, land was valued at Rs. 4000/- per acre in March 1943.

Both the above acquisitions were for extention of the present bus stand which is only about 200 yards from S.No. 916/8 where the alignment of the new road begins. The land value which was Rs. 2000/- in the latter part of 1939 rose to Rs. 4000/- in March 1945. What is required in this case is the market value prevalent in December 1942. Taking into account the pace of rise in prices based on the above two awards I fix the value of this block at Rs. 3500/- per acre.

Revenue Department.
Subject.

20 MAR 1953

LAND ACQUISITION - (South Kanara) - Udipi Municipality - Central ward town planning scheme - O.Ps.5:6:7 etc. sub-court - South Kanara - payment of additional interest - further particulars - furnished.

***

Ref.I.10063/51.8.

Station: Madras. Dated 18.3.53.

From

Sri W.R.S. Sattianathan I.C.S., Commissioner of Land Revenue.

Sri C.S. Krishnamoorthy I.A.S., Joint Secretary, Board of Revenue, Madras.

Read:- Board's Ref.I.10053/51.7 dated 2.2.53.
From the Collector of South Kanara, letter No.Spl.C.B.15/51 dated 9.3.53:-

Reference:-

Submitted to the Government in continuation of the Board's Ref. cited above.

For Joint Secretary.

To the Secretary to Government, Revenue Department, Madras.
Copy to the Collector of South Kanara.

ADN.19.3.

pto.
pt

30 -2-

Copy of the letter from the Collector of South Kanara, Ref.Spl.C.B.15/51 dated 9.3.53.

Sub:- LAND ACQUISITION - (South Kanara) Udipi Municipality - Central ward town planning scheme - O.Ps.5:6:7 etc. sub-court - South Kanara - payment of additional interest - further particulars furnished.

Ref:- Board's Ref.I.10063/51.7 dated 2.2.53.

The particulars of pay drawn by the several officers in 1949 are furnished below.

1. Sri Charles S.John, B.A. Revenue Divisional Officer	Rs.450/-
2. Sri W.J.M. Gonsalves, Head clerk.	Rs.110/-
3. Sri F.A. Karvelloe, clerk.	Rs. 80/-
Total amount of additional interest.	Rs.292-12-3
1. Proportionate amount of interest to be recovered from the Revenue Divisional Officer Sri Charles John on the basis of his pay - but recommended to be written off.	Rs.205-13-8
2. Amount to be recovered from Sri W.J.W.Gonsalves, Head clerk.	Rs.50-5-1
3. Amount to be recovered from clerk F.A.Carvelloe	Rs.36-9-6
Total of items 1 to 3.	Rs.292-12-3

/ True Copy /

For Joint Secretary.

Revenue Department.

Read:

From the Board of Revenue Reference I.10063/51-1, dated the 14th February 1952.
Government Memo No.8501 C/52-2, dated the 27th March 1952
From the Board of Revenue Reference No.10063/51-7, dated the 2nd February 1953.
From the Board of Revenue No.I.10063/51-8, dated the 18th March 1953.

G.O.Ms.No. ~~1246~~ 2346 dated 12/8/53.

In O.P.Nos.5, 6, 7, 12, 17, 33, 42, 47, 48 and 57 of 1948 on the file of the Sub Court, South Kanara, the Sub Judge, enhanced the compensation awarded by the L.A. Officer (R.D.O., Coondapur) in respect of certain lands acquired on behalf of the Udipi Municipality for the purpose of the Central Ward Town Planning Scheme. On 20-1-1949, the Commissioner, Udipi Municipality remitted the enhanced compensation with interest thereon up to ~~the~~ that date into the sub-Treasury, Udipi. The L.A. Officer did not take prompt action to transfer the amount to the Civil Court deposit with reference to the instructions in Rule 8 of the rules regarding the payment of compensation in Appendix II Part IV of the L.A. Manual. The amount was eventually paid to the decree holders on various dates between 16-11-1949 and 30-12-1949 involving a delay of nearly one year in payment. The parties were entitled to interest on the enhanced compensation till the date of payment. The interest payable for the period from 21-1-1949 to the dates of payment worked out to Rs.292-12-3. The ~~Court~~ Govt directed that the sum be paid from the State Funds pending its recovery from the persons responsible for the payment of this unnecessary interest.

2. The Government have examined in consultation with the Board of Revenue the question of the recovery of the sum of Rs.292-12-3 referred to in para 1 above from the persons responsible for its payment. They agree with the Board that the then Land Acquisition Officer, Sri Charles S. John was primarily responsible for the loss, that the then head clerk Sri W.J.M. Gonsalves and the concerned clerk Sri F.A. Carvelloe in the R.D.O's office, Coondapur were also responsible. The Board has recommended the total amount of loss be apportioned among the Land Acquisition Officer, the Head clerk and the concerned clerk

P.T.O.

in proportion to the salaries drawn by them at that time, that as Sri Charles. S. John has retired from service, his share of the loss be written off and that the shares of the loss due from the Head clerk and the concerned clerk be recovered from them. The Government consider that it would be bad in principle and lead to further laxity if the payments are not enforced. They have accordingly decided that the loss should be recovered from all the three persons responsible in proportion to the salaries drawn by them at the time the irregularity took place. The amounts to be recovered from each of the three persons in question works out as follows:---

Sri Charles S. John, Land Acquisition Officer.	... Rs.	205	13 8
Sri W.J.M. Gonsalves, Head clerk.		50	5 1
Sri F.A. Carvelloe; clerk.		36	9 6
		292	12 3

The Government direct that the amounts due from the Head clerk and the concerned clerk be recovered from them in the usual way in easy instalments. The Board is requested to instruct the Collector of South Kanara to take action accordingly after observing the prescribed procedure.

3. As regards the amount due from Sri Charles S. John, the Board is requested to issue a notice to him asking him to pay up the amount or to agree to the deduction of the amount in easy instalments from his pension. The Board is requested to inform him that if he does not agree to either of these ~~things~~ courses, the Government will be ~~compiled~~ compelled to file a suit in Court to recover the amount.

To the Bd. of Rev.(L.R.) - (with the connected records.)

To the Collector of South Kanara.

33

20,002—8-6-55.

ORDER PAPER.

Revenue **Department.**

Subject. Land acquisition - (South Kanara) - Udipi Municipality - O.Ps. 5,6,7 etc., on the file of the Sub Court, South Kanara - additional interest paid - Recovery from persons responsible for the loss to the Government.

Recommendations of Circulating Officer.

The Board's proposals are:-

(1) that the sum of Rs.299-13-0 paid as additional interest from State funds may be apportioned among the then Land Acquisition Officer (R.D.O. Coonlapur) and the then Head clerk and the subject clerk in the R.D.O.'s office, Coondapur in proportion to the salaries then drawn by them.

(2) that the amount of Rs.205-13-8 due from the Land Acquisition Officer (Sri Charles S.John) may be written off as he has retired and his pension has been sanctioned, and

(3) that the shares due from the Head clerk and the subject clerk, namely Rs. 50-5-1 and Rs. 36-9-6 respectively be ordered to be recovered.

They may be approved.

17/6/53

M. (d-K.) Draws from H. clerk & clerk

also may for the written

C.M. off.

M.A. Muniswamy

17-6-53.

(1)

(2)

(3)

(4)

(5) The amounts should be recovered by notice & if necessary by resorting to a suit in case of item (2)

(6)

(7)

(8) And in the cases covered by (3) it be recovered by easy instalments

(9)

(10) C Rajagopalachar

24-6-53

Orders of Ministers.

MADRAS GOVT. SECRETARIAT

24 JUN 1953

REVENUE DEPARTMENT

If orders passed in the Cabinet, Decision of Cabinet.

[S.No.8501-C/52]

Revenue Department.

Land Acquisition - (South Kanara) - Udipi Municipality - Central Ward Town Planning Scheme - O.Ps.5, 67 etc - Sub-Court, South Kanara - Payment of additional interest.

From the Board of Revenue Reference I.10063-51-1, dated the 14th February 1952.
To the Board of Revenue Memorandum No.8501 C/52-2 dated 27-3-52

From the Board of Revenue Reference No.I.10063/51-7, dated the 2nd February 1953.

To A.S.

Please see the Board's reference at pages 1-4 C.F., the Memo on pages 5-6 C.F., the Board's further report at page 8 C.F. and the enclosures at pages 9-27 C.F.

2. The compensation awarded by the Land Acquisition Officer (R.D.O., Coondapur) in respect of certain lands acquired on behalf of the Udipi Municipality was enhanced by the Sub-Court, Mangalore. The Collector of South Kanara in his letter dated 30-12-1948 requested the Land Acquisition Officer to take immedia-te action to realise the enhanced compensation, interest and costs from the Udipi Municipality and deposit the same in Court. The Commissioner of the Municipality was also informed of this and he was asked to take necessary action. The Commissioner paid on 20-1-1949 the enhanced compensation with interest in the Sub-treasury, Udipi, but the amount was actually paid to the decreeholders on various dates between 16-11-1949 and 30-12-1949 involving a delay of nearly a year in payment. The interest on the decree amount till the date of payment amounting to ~~Rs.~~ Rs.292-12-3 became payable to the parties according to the decree of the Sub ~~Court~~ Judge. As the Municipality declined to make good this amount and as the Sub Judge had ordered that it should be paid to the parties concerned by 26-2-1952, the Board permitted the Collector to pay the additional interest of Rs.292-12-3 from the State funds pending its recovery from the persons responsible. In Memo No.8501 C/52-2, dated 27-3-1952, the Government ratified the action of the Board ~~and called for~~ the Board promised regarding a further report ~~from the Board of Revenue in the matter~~ from the Officers responsible for the loss to the Govt.

3. The Board has now submitted its ~~the~~ further report after obtaining the explanations of the then Revenue Divisional Officer, Coondapur (Land Acquisition Officer) Sri Charles John, the Head

P.T.O.

Clerk of the Divisional Office and the Clerk in the R.D.O.'s office who then dealt with ~~the~~ land acquisition. Their explanations are at pages 9-11 C.F. The remarks of the Collector of South Kanara on these explanations of Sri Charles John (the Land Acquisition Officer) are at page 9 C.F. The Board's remarks on the explanations are on page 8 C.F. The Collector has not offered any remarks on the explanation of the Head Clerk and the Clerk. The Board considers that their explanations are not convincing. Sri Charles John tries to shift the responsibility on the Head Clerk, the subject clerk and the Collector's Office. He states that the irregularity had come to pass unwittingly and unintentionally by the several persons and that in any case it is not proper to hold him responsible for not looking into minor details in the midst of his heavy work. The Collector points out that the main reason for the delay in getting the funds deposited in Court was due to the non-receipt of copies of decree and judgements by the Land Acquisition Officer and even when he received them they had to be returned to the Government Pleader for rectifying some mistake regarding Court costs. The Collector has observed that the resultant loss caused to Government namely Rs.292-12-3 is little and recommends that it may be waived. The Board is of the view that Sri Charles John ~~is~~ was primarily responsible and cannot throw the blame on the clerks. The Board therefore recommends that the total amount of loss may be apportioned among the Land Acquisition Officer, the Head Clerk and the Clerk concerned in proportion to the salaries drawn by them at the time. As Sri Charles John has since retired from service, the Board considers that no action can be taken against him. The Board therefore recommends that recoveries ~~only~~ can only be made from the clerks concerned as proposed by it and that as regards Sri Charles John his share of the loss may be written off. It is understood from Finance that the pension of Sri Charles John has already been sanctioned. As it is not possible to ~~recover~~ recover the proportionate loss from his pension, it is for orders whether the Board's recommendation that it will have to be written off may be accepted. The Board has called for particulars from the Collector regarding the amounts to be recovered from the Head Clerk and the clerk and the amount to be written off~~.~~.

The particulars of the amounts to be recovered from the clerks may be awaited. In the meantime, the file may be sent to Public (Special) and Finance for remarks.

(illegible)

Pr
18.3.53

The Board's view that the land acquisition officer was primarily responsible for the irregularity, and that he cannot throw the blame on the clerks of his office as he has done in his explanation on pp 9-10 c.p. and that the explanations of the head clerk and the subject clerk are equally unconvincing may be accepted. Its proposal to apportion the sum of Rs. 292-12-3 paid for the State funds among the three officials referred to above in proportion to the salaries drawn by them at the time, to recover the shares due from the head clerk and the subject clerk and to write off the share due from Sri. Charles John (the land acquisition officer) who has retired may be approved.

(illegible)

The sum of Rs. 6464-6-0 being the enhanced compensation and interest thereon awarded by the Munsif Court was in deposit in the Govt. Sub-treasury from 20-1-49 till it was drawn from the Sub-treasury on 7-11-49. No interest is payable by the Govt. on the sums for the period it remained in ~~fixed deposit with~~ deposit in the Sub-treasury. But if it is assumed that the Govt. ~~should be deemed to have~~ were liable to pay interest for the period, then the loss to the Govt. will not be as much as Rs. 292-12-3 but much less than that amount.

Pub(Spl), Health, L.A. and Fin. may see for remarks.

20.3.53

Pub (Spl) / Health / LA / Fin

GOVERNMENT SECRETARIAT 1501 24 MAR 1953 40850

4

Publ(Spl) Dept

Please see the notes of Revenue on pp 1-3 ante. The proposal at A overleaf may be ~~[illegible]~~ accepted and the file passed on to Health.

TB 25/3/53 26/3/53

Health

CS/Health

Publ.Spl/No 1501/53-I
26-3-53

DEPUTY SECRETARY
27 MAR 1953
PUBLIC DEPARTMENT

15749

Health (T)

Please see the notes of Rev on pp 1-3 ante the proposal at A on p 3 ante may be accepted in this Dept also. and the file may be passed on to L A.

SK/27/3/53
RP
28-3-53

SK
30.3.53

Health W.O
15749-IT
30-3-53

L.A.

L.A. Dept(Q)

Please see the notes of Rev Dept on pp. 1-3 ante. The proposal at 'A' overleaf may be accepted and the file passed on to Fin Dept

2. With ref to B on p 3 above it is not clear why the Govt is not liable to pay rent for the period from 20.1.49

16184
31 MAR 1953
SECRETARIAL I

IC

JS3
Rev

Rec'd p. 4

to 7.11.49. The Court of the mpty promptly paid the amount awarded by the Court ~~immediately~~ after the receipt of intimation from the Court. The mpty is not liable to pay interest subsequent to 20.1.49. The file may be passed on to Finance.

KV 6.4.53

ell 6.4.53

Secy

Fin. 16184/53-I-4 7.4.53

Fin

(Prin. Fin note on p. 4 above) The orders ~~of~~ on p. 5 above may be issued. The proposal of the Rev. Department at C on p. 3 above may be adopted.

With reference to the remarks of the LA Dept at C on pp 4-5 above, it is submitted that Govt. do not pay interest on monies deposited with them in the Treasuries

This is only ordinary procedure. But this is not what L.A. has raised.

DOS 24.4.53

DOS 28/4/53 ~~ADS~~

The real point is that the money deposited by the municipality should have been promptly brought into the Govt. The failure to do this entailed payment of interest to the parties concerned. It is now proposed to treat this as a charge on the fault & take action as at A on p. 3. The municipality cannot be asked to bear any portion of this charge & it is not proposed to do so.

Rev. 30.4.53 Revenue

Fin. no. 2950/ 30.4.53.

385386C 2/5/53

ADDITIONAL DEPUTY SECRETARY TO GOVERNMENT 7501 8 APR 1953 FINANCE DEPARTMENT

C 1 APL 1953 REVENUE DEPARTMENT

6/

Revenue Department.

To A.S.

The file relates to the payment by Government of a sum of Rs.292-12-3 towards additional interest to the parties in a land acquisition case in Udipi Municipality and the recovery of the amount from the Officers on account of whose lapses the amount had to be met from the funds of the State Government. The notes on pages 1-5 ante may be perused. The compensation awarded by the Land Acquisition Officer (R.D.O, Coondapur) in respect of certain lands acquired on behalf of the Municipality was enhanced by the Sub Court, Mangalore. The Municipal Commissioner paid on 20-1-1949 the enhanced compensation with interest up to that date in the Sub-treasury, Udipi, but the amount was actually paid to the decreeholders on various dates between 16-11-1949 and 30-12-1949 involving a delay of nearly a year in payment. The interest on the decree amount till the date of payment amounting to Rs.292-12-3 became payable to the parties according to the decree of the Sub Judge. The Municipality declined to pay the amount on the ground that full amount had been paid even on 20-1-1949 and if that had not been adjusted to Court deposits, it was not the fault of the Municipality. In the circumstances, the Board permitted the Collector to pay the additional interest of Rs.292-12-3 from the State funds pending its recovery from the persons responsible. In Memo No.8501 C/52-2, dated 27-3-1952, the Government ratified the action of the Board.

The Board of Revenue has held that the then R.D.O., Coondapur (Land Acquisition officer) Sri Charles John, the then Head clerk and the subject clerk in the R.D.O's Office who then dealt with land acquisition were responsible in the matter. Their explanations are at pages 9-11 C.F. The remarks of the Collector of South Kanara on the explanations are at page 9 C.F. The Board's remarks on their explanations are on page 8 C.F. The Board considers that their explanations are not convincing and recommends that the total amount of loss may be apportioned among the land acquisition officer, the head clerk and the clerk

concerned in proportion to the salaries drawn by them at the time. Sri Charles John has since retired from service. The Board therefore recommends that recoveries can be made only from the clerks concerned and that as regards Sri Charles John, his share of 15 loss may be written off. ~~Details of the amounts to be made as furnished by the Collector are given below:~~

This Department proposes to accept the recommendation of the Board of Revenue. Public (Special), L.A., and Finance have also agreed to the proposal. The details of the recovery to be made as furnished by the Collector are given below:

1. Proportionate amount of interest to be recovered from the Revenue Divisional Officer Sri Charles John on the basis of his pay - but recommended to be written off.	Rs.205-13-8
2. Amount to be recovered from Sri W.J.W. Gonsalves, Head clerk.	50-5-1
3. Amount to be recovered from ~~clerk~~ Sri F.A. Carvelloe, clerk.	36-9-6
Total.	292-12-3

It is for orders whether the Board's recommendation will be accepted by the Government, and if so, when the amount due from ~~by~~ Sri Charles John will be ordered to be written off and the amounts due from the then head clerk and subject clerk will be ordered to be recovered as at 'A' above.

15.6.53.

16.6.53

17/6/53

H. (A-R.) / C.M

17-6-53.

8/

8501 C/5

As the two fish (R.D.O) have escaped the minor ones may be censured & their dues also may be written off

M. A. Manickavasagam
17-6-53

It would be best in principle and best to further laxity if we do not enforce the payments of the recoveries detailed at AA preceding. The items 2 & 3 may be recovered in the usual way As for item 1. Notice may issue to the officer who has retired to pay up, saying that as he has retired Govt will be compelled to file a suit in court & recover the amount in case he does not otherwise permit deduction by easy instalments from his pension.

C Rajagopalachari
21-6-53

The file may be circulated to M(L.R.) for perusal & C-M/s minutes above.

Rajagopalachari
23.6.53

M. Venkatachar
25/6/53

M(L.R.) M. A. Manickavasagam
25/6.

C.25/6

C.25/6

ASSISTANT TO GOVERNMENT
22 JUN 1953
REVENUE DEPARTMENT

ASSISTANT TO GOVERNMENT
23 JUN 1953
REVENUE DEPARTMENT

ASSISTANT TO GOVERNMENT
24 JUN 1953
REVENUE DEPARTMENT

J.A.S.

With reference to the orders in Circulation ante p 8 ante, a draft order is submitted for approval.

2. Further action in regard to the recovery of the amount due from Sri Charles S. John has to be taken separately in the Public Department after the receipt of the Board's report.

3. Pub (Spl) Dept. may see before issue.

6.7.53

8.7.53.

A.S. II/8

9/7/53

FIN / Pub (Spl.)

Fin (Accts)

(Previous Fin note ante 5 above)

The case may be passed onto Pub(Spl) after perusal of the orders in circulation page 7-8 above and the draft order placed below -

11.7.53

13.7.53

Pub (Spl)

ADDITIONAL DEPUTY SECRETARY TO GOVERNMENT
11 JUL 1953
5265
FINANCE DEPARTMENT

Fin. Spl. 3885/53

DEPUTY SECRETARY TO GOVERNMENT
3326
15 JUL 1953
CHIEF SECRETARIAT

PUBLIC (SPECIAL) DEPARTMENT

(last seen on p.4 ante.)

The orders in circulation on p.8 ante and the draft order below may be perused.

The Revenue department have stated that further action in regard to the recovery of the amount due from Sri Charles John has to be taken in this department. The proposal is to obtain the officer's consent for the recovery of the amount from his pension in easy instalments and if this is not

[P.T.O.]

possible to file a suit in a court of law for effecting the recovery. It may be mentioned here that even though Sri Charles John retired from service when he was acting as a Collector, he was only a permanent Deputy Collector and the pension sanctioned to him was only that admissible to a Deputy Collector. Further, the irregularity was committed in his capacity as a Deputy Collector and has no bearing whatever on his work as a Collector or an I.A.S. officer. In these circumstances, it is but proper that only the Revenue department should take further action in the matter. Subject to orders, the file may be returned to Revenue.

G.O. 1813-24 Fin dated 22.10.52 at (4) p.9 L.F

S

TB 29/7/53 30

31/7 Rev

thro' Pub(SpL)B) 31.7.53 Rev 31.7.53.

Rev. Dept

Q/Rev

Pub (Spl) Sec.I

No. 810. 3324/53-1

31/7/53

D.O.A.S.

The note above may be perused. The draft order below may now issue.

The further action referred to at S above, if any, will arise only after the Board's reply is received. The draft order below is issued. The circumstances stated by Pub(Spl) in their note above this dept. may appear that such further action should be taken in this dept. The further action might be taken in B Sec. which deals with Dy. Collectors. The draft order may issue.

4-8-53 Rev 4/8/53

6505/9-1 1/8/53 MS. 1.8.53

Thro B Sec

5-8-53

ASSISTANT SECRETARY TO GOVERNMENT 1ST AUG 1953 REVENUE DEPARTMENT

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